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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

Re: MM No. 93-41  
Triad Family Network, Inc.

Dear Ms. Searcy:

Transmitted herewith on behalf of Triad Family Network, Inc., are an original and six (6) copies of its Request to Supplement Opposition to Petition for Leave to Amend.

Should any questions arise concerning this matter, kindly communicate with the undersigned.

Very truly yours,

*Lee J. Peltzman* APS  
Lee J. Peltzman  
Counsel for  
TRIAD FAMILY NETWORK, INC.

Enclosures

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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D. C. 20554

MAY 27 1993

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In re Applications of	)	MM No. 93-41
	)	
TRIAD FAMILY NETWORK, INC.	)	BPED-910227MD
Winston-Salem, North Carolina	)	
Channel 207C3	)	
	)	
POSITIVE ALTERNATIVE RADIO, INC.	)	BPED-911119MC
Asheboro, North Carolina	)	
Channel 207A	)	
	)	
For Construction Permit for a	)	
New Noncommercial Educational	)	
FM Station	)	

To: Administrative Law  
 Judge Joseph P. Gonzalez

**REQUEST TO SUPPLEMENT**  
**OPPOSITION TO PETITION FOR LEAVE TO AMEND**

Triad Family Network, Inc. ("Triad"), by its attorneys, hereby requests leave to file a Supplement to its previously filed Opposition to Petition for Leave to Amend of Positive Alternative Radio, Inc. ("Radio"). In support of its position, the following is submitted:

Triad has filed an Opposition to the Petition for Leave to Amend filed by Radio on March 17, 1993. Radio's Petition for Leave to Amend specifies a new transmitter site. An earlier Radio Petition for Leave to Amend, filed prior to the designation of Radio's application for hearing, was denied by the Commission in the Hearing Designation Order initiating this proceeding. DA 93-223, released March 9, 1993, at para 4.

Triad requests leave to file a Supplement to its Opposition on two separate grounds. First, Triad has only recently been able to

obtain the Sworn Statement of Edward Swicegood, President and General Manager of Station WKXR(AM), Asheboro, North Carolina, owner of Radio's site. Mr. Swicegood's Statement is obviously relevant to the issue of whether Radio lacked the required site assurance when it filed its application. In fact, Radio has recognized the importance of Mr. Swicegood's Statement since it previously made direct reference to the failure by Triad to include a statement from Mr. Swicegood regarding the availability or unavailability of his tower site to Radio. See Radio Reply to Opposition to Petition for Leave To Amend, filed April 5, 1993, at p. 4 ("If Triad would now claim that Radio lacked site assurance, why has it not attached a statement from Swicegood that he never intended to make his tower available, that there was no meeting of the minds, etc.?" ).

Secondly, Radio has argued that Commission precedent does not require that an amendment be occasioned by an involuntary or unforeseen act in cases where the amendment tends to remove a disqualifying defect and confers no comparative advantage, citing Anax Broadcasting, Inc., 87 FCC 2d 483 (1981).<sup>1/</sup> In a recent Commission decision, however, released subsequent to the filing of Triad's Opposition to Radio's Petition for Leave to Amend and Radio's Reply thereto, the Commission has made clear that the above-cited principle is not Commission law. See Montgomery County

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<sup>1/</sup> Radio's reference to the above cite is contained in its Petition for Reconsideration of the Hearing Designation Order at p. 7 and n. 5. Radio's Petition for Reconsideration was attached to Radio's Petition for Leave to Amend, filed March 17, 1993.

Media Network, Inc. d/b/a Imagists, FCC 93-196, released April 21, 1993, at para. 10. ("To the extent that the ALJ suggested that the [good cause] standard is more lenient where an applicant seeks to cure a potentially disqualifying defect, we have modified our

CERTIFICATE OF SERVICE

I, Linda E. Skiles, Office Administrator of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were mailed this 7th day of May, 1993, to the offices of the following:

Administrative Law  
Judge Joseph P. Gonzalez \*  
Federal Communications Commission